These articles, notes, and comments were compiled for the purpose of learning how to invest in Rights. Repetition and redundancy are intentional.

OVER-SUBSCRIPTIONS

This is a discount situation where an "oversubscription" is the optional privilege of a shareholder to participate in the residual portion of a corporation's offering of shares to its stockholders.

An oversubscription is a unique trading special situation that may occur in the securities you now hold. In effect, an oversubscription is a *bonus privilege* extended to stockholders who have participated in a "rights" offering. Investors may enter the situation any time during the life of the "rights" offering.

"Rights" may offer three distinct applications processed as follows:

1. A Corporation offers stockholders the privilege of purchasing additional shares. This privilege is represented by "rights." Each share of stock carries one "right" representing a pro-rata interest in the additional shares. The first step is called the primary subscription.

2. The second phase permits stockholders to subscribe to a sufficient number of fractional shares to round out holdings to a full share.

3. To stockholders who have exercised their privilege of subscribing to additional shares (step one), the company offers the opportunity to purchase any unsubscribed remaining shares at the subscription price on a pro rata basis.

An **Oversubscription**, then, is an optional privilege to participate in residual portion of a corporation's offering of shares to its stockholders. "Rights" offerings generally expire after two weeks. Allotment of the "Oversubscription" portion seldom takes more than a day or two following an expiration of the "rights."

Bear in mind, the exercise of an "Oversubscription" privilege is optional and does not affect holder's basic privileges outlined in steps one and two.

Significant capital gain opportunities in "Oversubscriptions are lost, too frequently, through ignorance or apathy. While most "rights" offerings are underwritten (guaranteed by an investment firm), thereby eliminating oversubscription offering, some companies bypass underwriting and offer shares directly to their stockholders. When this feature is used, the company extends to stockholders who have subscribed to their primary allotment (step one), an offer to purchase unsubscribe shares at the basic offering price on a pro rata basis.

For example, *Sierra Pacific Power Company* offered (without underwriting) shares to stockholders by way of "rights" containing an oversubscription privilege. In this case, the Oversubscription allotments amounted to 13%, meaning the participants received 13% of their primary subscription at the price of $31 a share. Since the stock was priced around $35 a share, a profit of four points was indicated. Nevertheless, some stockholders neglected to subscribe to their primary subscription while others by-passed the Oversubscription.

Before we delve into the technical aspects of Oversubscription trading, perhaps we should clarify a few basic elements, namely: *rights, warrants,* and *preemptive privileges*.

A **"right"** is a perishable option to purchase securities at a fixed price. It has value as long as the market price of the stock is above subscription price. Rights require prompt attention since they have a short though valuable life.

A **"Warrant"** is a negotiable instrument entitling holders to purchase stock in the issuing corporation at a stated price. Its privileges are similar to "rights" in that it is an option to purchase. In respect to longevity, it is different since a warrant may have a protracted or unlimited existence. The "warrant" may have little or no value if the shares purchased under the privilege were at a price too far from the market price of the stock. Because the value of a "warrant" is correlated to the market price of the respective stock, it moves in direct relation with the stock. Furthermore, since "warrants" are priced substantially below the market price of the shares, they are purchased for speculative trading since they offer a greater participation in the stock's market fluctuations than obtained from the stock itself.

For example, *Trans World Airlines* “warrants” to purchase common at $22 a share ranged from $23 1/8 to $40.63 while the stock’s high and low was $61.87 and $39.63 respectively. For illustrative purposes only, we suggest a trader could purchase twice as many warrants around the $23 level as he could buy stock at $40.63 for very little difference in money. Since both the stock and “warrants” had a 20-point move, the warrant folder would make twice as much on the transaction as a purchaser of the stock.

The *“Preemptive Privilege”* (having a prior right to purchase) is the right of stockholders to maintain their relative equity position in a company’s capital structure. This means that a company issuing additional stock must first offer their stockholders the right to purchase an amount of additional shares to insure the equivalent equity position that was present prior to issuance.

EXAMPLE:

A company having 1 million shares outstanding offers to sell an additional 100,000 shares. Since this is a 10% dilution, stockholders would have the right to purchase a number of shares equal to 10% of their holdings. A 100-share stockholder would have the privilege of purchasing 10 additional shares at the subscription price. Upon exercise of his “rights,” we would have 110 shares of the 1.1 million, compared with 100 shares of the original 1 million. In each case, his equity position would be the same 1/10,000.

The presence of “preemptive privileges” is stated in provisions for common stock described in prospectuses, statistical reports, company notices of meetings and charters.

THE OVERSUBSCRIPTION PRIVILEGE

The following excerpt from *Hawaiian Electric Company* prospectus describes the provision for oversubscribing:

“**Oversubscription Privilege**: Holders of subscription warrants who exercise their Rights to subscribe will have the privilege of oversubscribing (subject to allotment) at the Subscription Price per share for not more than one full share for each share subscribed for pursuant to the primary subscription right, out of the shares which are unsubscribed at the termination of the subscription period by warrant holders or employees. A partial payment of $5 for each additional share so requested must accompany the warrant. In the event there are not sufficient unsubscribed shares with which to fill oversubscription orders, the Company will allot such shares to the number of shares they have requested under the subscription privilege. Where the allotment results in fractional interests they shall be adjusted to the extent practicable to the nearest full share.”

CAPITAL GAIN POTENTIALS

Profits in Oversubscription participation come about from discount between market price (of the security) and stockholders cost or subscription price. The significant point is that through oversubscriptions stock can be purchased, in limited amounts, at bargain prices. The procedure for creating capital gains through oversubscriptions follows:

A company offers its stockholders the privilege of purchasing additional shares on a pro rata basis. “Rights” indicating the rate of each share's participation are allocated so that each share of stock you retain has its same relative position in the capitalization as before the “rights” offering.

A company having 100,000 shares outstanding plans to sell 10,000 shares to its stockholders. This amounts to a 10% increase in number of outstanding shares. Therefore, stockholders desiring to retain their same relative amount of holdings in the capital structure would purchase an additional share for each 10 shares held. A holder of 1,000 shares would subscribe to 100 shares to retain his original relationship of 1,000 divided by 100,000 or 1/100%, since 1,110/110,000 represents a 1/100% interest also.

Now let's assume the price of the stock in the market is $20 a share and the subscription price for additional shares is $18. The “rights” privilege has value since this entitles holders to buy pro rata amount of stock at $18 compared with the market price of $20.

HOW TO CALCULATE THE VALUE OF A "RIGHT"

The only way one could buy stock at $18 a share would be upon presentation of 10 rights for each share desired, along with $18 per share. Thus 10 "rights" would have a value in the difference between the market price of the stock ($20) and the subscription price of $18, equal to $2 a share. By dividing 10 "rights" into $2, we have $0.20 as the value of each "right." "Rights" are negotiable and traded in the securities market. Should your calculation take place before the ex-dividend date, then add 1 "right" for the dividend and divide $2 by 1l, resulting in a value of $0.18 per right.
While "rights" generally have value close to parity, sometimes they are at a discount and other times at a small premium. The latter would reflect buying of "rights" used for oversubscriptions.

THE OVERSUBSCRIPTION PLAY

The expiration of a "rights" offering, the company may have had subscriptions for less than the amount offered. In our example, let us assume that only 9,000 shares of the 10,000 offered had been subscribed. When the residual, in this case, the 1,000 shares have been reserved for stockholders that is known as an oversubscription privilege. The profit in the Oversubscription is contained in the 1,000 shares.

Where an Oversubscription opportunity is present, as indicated in our illustration, the company had agreed to sell all unsubscribed shares on a pro rata basis at $18 a share to those stockholders who have exercised their primary "rights" that is, subscribed to a proportionate amount by the number of shares held. Stockholders who had complied with the above indicate at time of subscription their desire to participate. Thus the 1,000 shares are divided among stockholders who entered oversubscription orders. In this way, a stockholder purchases shares at $18 compared with the market price of $20 a share. Note that the shares are obtained without use of rights.

You know that as a stockholder you may participate in your pro rata share of the Oversubscription. Also, without owning shares at time of the rights offer, an investor may participate in the Oversubscription if he first purchases rights. This establishes privilege to subscribe to shares, plus additional shares at termination of the "rights" offer. However, in this situation, our objective is not long-term investing. Therefore, at the time we purchase "rights," we sell the equivalent number of shares to be received by using the "rights" to subscribe to the stock. In effect, then, we have no real position since our sales of stock offsets are purchases of "rights." *This is, in effect, an arbitrage.*

For example, company X offers additional stock at $18 a share in the ratio of 1 for each 10 held. If the stock is priced at $20, then the "rights" are worth $0.20 a share. If we purchase 1,000 "rights," we can subscribe to 100 shares of stock at $20. Therefore, to establish Oversubscription participation, we buy 1,000 "rights" under $0.20 a share if possible, and then sell 100 shares of stock at $20. Our 1,000 "rights" will be delivered to the processing agent in exchange for 100 shares of stock which we will deliver against our sale of 100 shares of stock. *The spread is our profit.*

What we have created is the privilege of participation in the Oversubscription to the extent that we have subscribed to the stock. A protective feature is that our decision to participate in the Oversubscription does not have to be until close to expiration date of the "rights." Thus, if the stock is sufficiently above subscription price to assure a profit, we exercise the Oversubscription privilege.

We have noted over the years that the number of shares available the Oversubscription play varies from negligible amounts to as much as 60% allotments. This latter occurred in the *Central Hudson Gas and Electric Corp.'s* offering of common stock to its shareholders. A 60% allotment means that stockholders who participated in the Oversubscription received 60% of their primary subscription. On the other hand, *Interstate Power Company* had only 7,000 shares to be issued on the secondary "rights" compared with 177, 354 shares subscribed to on the primary subscription. In a recent "rights" and Oversubscription offering by *Hawaiian Electric Company,* those participants in the Oversubscription were in a position to take a $2.87 profit for shares received. At expiration time, the stock was priced at $32.87 while the subscription price was $30 a share.

Conventional financial analysis for evaluation of shares in relation to market price is standard procedure. This will show a quality rating helpful when considering stability of price of stock being issued. Since profit lies in the sale of shares received in the Oversubscription allotment, we would direct our participation to situations where price stability is present.

A situation that has risen in price prior to the “rights” issue and whose quality rating is low would hold much uncertainty as to market price at termination of the “rights” offer.

An additional point to consider in our analysis is market activity of stock of the company issuing additional shares. Therefore, the number of shares, their dispersion, and market place have significance. A closely-held stock issue would not offer adequate market flexibility for the varied steps in Oversubscriptions. In this special situation, we deal with perishable “rights,” possible short sale of stock, and disposal of Oversubscription allotment upon notification. Therefore, marketability is a vital factor. Favorite situations are those were price stability is indicated immediately following expiration of “rights.”

SOURCES OF INFORMATION

Information regarding oversubscription “rights” offerings is found in newspapers, financial publications and services, as well as being available from investment dealers. Registered stockholders or advised by the company through prospectuses, notice of meeting, and letters of information. A point to keep in mind is that companies resorting to Oversubscription procedure are likely to extend similar opportunities at subsequent times when financing through “rights.” A few companies who have been recent users of Oversubscriptions in the sale of stock to shareholders include: *Hawaiian Electric Company, Interstate Power Company, Sierra Pacific Power Company* and National Aviation Company

SUMMARY OF STEPS IN OVERSUBSCRIPTIONS

1. Stockholders are offered “rights” to additional shares and also participation in pro rata distribution of unsubscribed shares.

2. Significant points are: subscription price compared with market price of shares, primary subscription and oversubscription terms.

3. Capital Gain is in the number of shares obtained through Oversubscription where a spread is present between subscription price and market price of the stock.

4. Fluctuations of “rights” are in direct relationship to stock movements.

5. The amount of participation in Oversubscription reflects size of one's primary subscription.

6. Risks of losses through decline in market price of the shares are eliminated by selling the shares to be received from the primary subscription time at the “rights” are purchased.

7. Application of step 6 does not reduce one's participation in the Oversubscription.

8. Final decision about participating in Oversubscription can be withheld until close to expiration date of “rights” offering.

9. Since this is a trading situation, stock received through Oversubscription should be sold upon notification.

MORE EXAMPLES (1961)

How to Locate the Profit

The profit potential in an oversubscription is the difference between the cost, which is the subscription price for the shares, and the market price of the shares. Therefore, the obvious goal in oversubscription situations is to buy as many shares as possible at the subscription price. This can be done by purchasing rights, which gives you the privilege of participating in the distribution of unsubscribed shares at the subscription price. However, to make the situation riskless we sell the shares for which our original (primary) rights entitle us simultaneously with the purchase of the rights. Thus, in effect out stock position is even. This is seen in the following example:

A company offers rights to subscribe to shares at $10 a share in the ratio of one share for each ten shares held. The company also states that unsubscribed shares will be prorated among those who subscribe at the primary offering of 410 a share. Our procedure then is to purchase 1,000 rights which entitle us to purchase 100 shares at $10 a share. We immediately sell out the 100 shares (represented by the 1,000 rights). By this action we are not vulnerable to market fluctuations since we do not own stock. However, we have established through the 1,000 rights the privilege of participating in shares which remain unasked for at the expiration of the subscription offer.

In a way this is like the grocer's box top premium offer. In the grocery situation you purchase a package of cereal, after disposing of the cereal (by eating it) , you then may send the box top to the company in exchange for a small package of the same cereal at no extra cost (or a nominal fee) . The small package is the equivalent of our oversubscription profit.

Since the subscription price, in an offering of stock by a company, must be lower than the market price to induce purchase of the stock, we have a profit in all the shares allotted to us at the subscription price. These shares of course are sold upon notification of our allocation.

The **MERGENTHALER LINOTYPE CO.** offered an oversubscription privilege in a recent "rights" use. It was possible to purchase rights at $2.87 a right, which for four (4) rights, the amount needed for one share, amounted to $11.50. This sum, added to the cost of the stock on subscription at $45, brought the total cost of a share to $56.50. Since the stock was selling on the NYSE around $56.75, it was possible to dispose of the share purchased via the rights at approximately no profit or loss.

However, by establishing the opportunity to participate in the oversubscription a sizable profit was possible since the spread between the subscription price of $45 a share and the market price of $56.75 was equal to $11.75. In actual practice it worked out better since the shares were priced around $58.5 to 59 on the day allocations were announced. Therefore our profit was `13.5 points on each share we received in the oversubscription allotment. Since the oversubscription allotment amounted to 8% of our primary subscription then for every 100 shares we subscribed primarily we received eight shares at a cost of $45 per share. In this way we accomplished our goal of buying below the market. Our purchase of eight shares at the subscription price of $45 a share which was 13.5 points below the market price established a gross profit of $108 on each unit.

The cost of 400 rights, the amount needed for 100 shares, was $115. This money could have been in use for about two weeks, while the money needed for the oversubscription would only be used for a few days. Therefore, to the investor the situation offered a profit after costs equal to $33 net for each $115 invested—a stupendous profit from a practically riskless situation.

<u>QUALITY ANALYSIS AND PROCEDURE</u>

A good approach to an oversubscription situation is first to do a financial analysis of the shares to establish as quality rating. The prospectus issued with each offer of rights will have most of the needed data. Participation in oversubscriptions has been found to practical when the quality of the shares indicates a price stability for the period immediately following expiration of the rights.

The next step is to purchase the "rights." This will establish the privilege to subscribe to shares, plus additional shares at the termination of the offering. However we do not want to own shares permanently. Therefore, while the rights are used to subscribe to shares, those shares should be sold at the time the rights are purchased. In this way we have purchased rights, to be used to subscribe to new shares, and will have established our privilege to participate in an oversubscription. On balance, we are even, having sold as many shares as we have rights to buy. Then, on the date the rights expire, we may decide whether to use this participation privilege which we have created. If the spread between the subscription price and the market is adequate, we would exercise our privilege. Should the spread be insufficient, we are not required to do anything.

END

Notes from Special Situation Investing Class:

Form 10-12 for spin-offs. **10-K Wizard is excellent**. Look for spin-offs. Key words-spinoff, distribution etc.

Rights Offerings: a parent company may give its shareholders the right to buy stock in one of its subsidiaries or divisions.

When a *rights offering* is used to affect a spin-off, it is worthwhile to pay close attention. Rights offering are often used to raise additional capital.

Rights that are not exercised or sold expire worthless after a set time period.

Rights offerings are obscure and often confusing. Throw in the neglect and disinterest displayed by most institutions. Investors towards spinoffs, and you have an explosive combination.

A parent will generally distribute to its shareholders rights to buy shares in a spin-off.

At the time of the offering, it is not known whether the spin-off will trade above or below the purchase price set in the rights offering. No need to seek the highest possible price. In a rights offering, since all shareholders of the parent have an equal opportunity to purchase stock in the spin-off—shareholders have been treated fairly and equally.

BARGAIN PURCHASE: the inclusion of *oversubscription privileges* in a rights offering. The right to buy additional shares if the *rights offering* is not fully subscribed.

FOLLOW THE MONEY! No matter how a transaction is structured, if you can figure out what is in it for the insiders; you will have discovered one of the most important keys to selecting the best spin-off opportunities.

Shares of a spin-off are distributed directly to parent-company shareholders and the spin-off price is left to market forces. Often, management's incentive-stock-option plan is based on this initial trading price. It pays to check out when the pricing of management's stock options is to be set.

There are few investment areas where insiders have such one-sided control in creating a new publicly-traded company. **Analyze the motives of insiders in spin-off situations.**

Liberty Media/Tele-Communications Case Study

This was a 10 bagger in less than 2 years. A right is somewhat like a short-term warrant.
This situation was artfully designed to create the most upside potential for those who participated, while simultaneously discouraging most investors from taking advantage of the opportunity.

Began Jan. 1990. *Tele-Communications*, the country's largest cable operator, announced its preliminary intention to spin off its programming assets like *QVC* and the Family Channel—assets est. to be worth nearly $3 billion. There was pressure to limit the ability of cable-system operators to own interests in program providers. The goal of the spin-off was to alleviate some of that govt. pressure by separating the company's programming assets from its controlled cable systems.

In March 1990, Shareholders were to receive rights that would entitle them to exchange some of their *TCI* stock for shares in the new company. If a rights offering is structured properly, shareholders are only taxed based on the value of the rights received.

$600 million value of entity to be spun off. *TCI* had a total capitalization of $15 billion ($6 billion of equity value and $9 billion in debt). The size of the *Liberty* spin-off was going to be an unimportant sideshow as far as most institutional investors were concerned. (Classic opportunity).

2 million shares to be issued in the spin off vs. 415 million FD in *TCI*.

Liberty considered unattractive by the media.

Tele-Communication's shareholders were to receive one transferable right for every 200 shares they owned. Each right, together with sixteen shares of *Tele-Communications*, could then be exchanged for one share of *Liberty* Media. At a price for *TCI* of $16, the price was $256 per share of *Liberty*. For 415 million shares of *TCI*—for every 200 *TCI* shares held translated into the approx. 2.1 million shares of *Liberty* to be issued. Institutions would consider the stock too illiquid. A price over $250 would be considered awkward.

The amount of *Liberty* shares issued would be equal to the amount of rights exercised. If only 1 million rights were exercised to purchase *Liberty* stock, only 1 million shares of *Liberty* would be issued—not the theoretical maximum of 2 million shares.

A sale of 1 million shares in exch. for $256 worth of *TCI* stock would equal a purchase price of $256 million for all of the common equity in *Liberty* Media (instead of a potential $512 million cost if all 2 million shares were purchased). Since *Liberty* would own the same assets, regardless of whether 1 million shares of common stock were issued or 2 million shares, anyone interested in *Liberty*'s upside would much prefer to split that potential among fewer shares.

Any stock not sold in the rights offering would be replaced by preferred stock to be owned by *Tele-Communications*. Any shortfall was to be made up through the issuance of $250 million of *Liberty* preferred stock to *TCI*—terms very favorable to *TCI*.

The FEWER shareholders that participated in the *Liberty* offering, the more leveraged the upside potential for *Liberty*'s stock. Better, this leveraged upside would be achieved not through the issuance of debt but through the issuance of low-cost preferred stock.

The success of *Liberty* would be of material importance to *Malone*. He had an option on 5% to 10% of the company.

The loss of $9.77 wasn't as bad as first appearances, since other assets were not consolidated—the stakes in equity of other companies. *Liberty* set up as a vehicle for *TCI*'s programming ventures. *TCI*'s programming muscle would benefit little *Liberty*. Help in the upside.

Liberty's problems include an illiquid stock, a terribly complicated asset and capital structure, and a lack of initial cash flow from its investments.

The owner of 200 shares of *TCI* ($3,000 of *TCI* stock at $256 per share) received a right worth less than $1.00.

Malone was able to keep nearly 20 percent of *Liberty*'s upside for himself compared with his participation in less than 2 percent of *TCI*'s upside. *Malone* would use *TCI*'s clout to help *Liberty*.

Class Notes:

1 share = 1/200 of a right. (Go through the hand-out). Very unattractive to do. Consolidated statements looked horrible. $320 million.

2.1 million Common at $250 per share. Why own illiquid stock when you own 320 million shares of the parent stock. Many rights expired worthless so less OS issued for *Liberty*. The $250 stock went to $3,000 in two years.

400 page prospectus. Every shareholder had the same right as *Malone*. This is a multi-billion dollar opportunity. There are many other smaller opportunities in smaller deals.

Institutional Framework.

Thinking of how to think.

Learning curve of a few years in finding Spin-offs. The world evolves. I am not the most sophisticated analyst, but I do have a very good <u>context</u> to evaluate what I am looking at. **Thinking about how to think.** It is simpler than you think.

It is not going to be based on a 40 page analysis but it is on **finding a big opportunity and acting on it.** The special situation world has lots of opportunity.

END

A Review of Rights (source: *After the Trade is Made, Processing Securities Transactions* by David M. Weiss, Revised Third Edition).

A right, or subscription right, is a privilege granted under the corporate charter to its stockholders to purchase new securities in pro to the number of shares they own. The rights holders are entitled to purchase at a preset price known as the subscription price, which is lower than the stock's current market price.

Rights are offered because the preemptive rights clause in the corporate charter or bylaws requires the Corporation offer new securities of common stock to its current common stock holders were offering them to anyone else. Shareholders must be given the chance to maintain their percentage ownership. Therefore, the new shares must be issued to the stockholders in proportion to their percentage of ownership. The easiest way to meet this requirement is to issue one right per share of stock owned. For example, an owner of 100 shares of stock receives 100 rights.

Shareholders who want to subscribe using number of the rights plus a dollar amount, which is the subscription price.

Example: *Star rockets, Inc.*, has million shares of common stock outstanding and wants to raise capital by issuing thousand additional shares. The common stock is trading at $65, and the subscription value is 60. It's the 5 million shares are outstanding; the company issues 5 million rights-- one for each year of stock. According to the terms of the rights, a current stockholder, wanted to subscribe to a new share of stock, has to submit five rights $60 to subscribe to the companies aged to receive when you share.

Shareholders who choose not to subscribe may sell their rights, because they have a market value that is based on their *theoretical value.* To calculate the theoretical value of a right, divide the difference between the subscriptions prices in the market price by the number of rights required to purchase one new share:

Market price-subscription price/number of rights for subscription = theoretical value.

Example: the market price Star rockets common is $65, and the subscription price of the new stock is $60. If you need five rights to subscribe, the theoretical value of each right is indicated as follows:

Theoretical value= $65-$60 = $5, $5/5 rights = $1/right.

Cum Rights

The value of the right is considered part of the stockholders principle; if the right is discarded, the owner loses money. Some investors are not aware of these values of a tree writes as junk mail and throw them away. They are throwing away money.

Before the new stock is actually issued, the stockholders of record a reform of the pending rights offering. Before the new stock is actually offered to the public, current outstanding stock is traded writes; that is, it trades with the theoretical value of one right included in its market price.

To complete the actual value of the issue trading rights, one right must be added to the number of rights needed to subscribe as the current price of the stock moves the value of one right(cum rights). Divide the difference between the market price and the subscription price by the adjusted number of rights needed to drive to one new share. The additional right offers the value in the current market value of the old stock.

Example: the subscription price of Star rockets is $60, and the market value of the common stock, cum rights, is $66. You need five rights to subscribe.

Value of common stock (cum rights) $66.00

Subscription value	-$60.00
Difference	$6.00

Ex-Rights

Once the rights are issued, the stock in the rights trades separately. As stated earlier, shareholders that do not want to subscribe sell their rights. Among the attention of buyers are holders that want to round up their shareholding and traders looking for a large percentage return with a minimum downside risk.

Madison Partners' client, Patty Kaick, owns 400 shares of Star rockets, Inc. As such she receives 400 rights. 400 rights will allow her to subscribe to be shares (400 rights/five rights per share= 80 shares). Patty does not want an odd lot of stock she goes into the market and purchases hundred rights. She then takes the 400 she has in the 100 sheep boy and a check for $6,000 and subscribes 100 new shares.

The trader has a different mission with the stock at $65; the rights are worth one dollar. Suppose a trader buys 5,000 rights at one dollar each. After the purchase, stock rises in value to $70 per share, and the rights are worth two dollars per share. $70 minus $60 equals $10; $10 divided by five rights equals two dollars per right. The stock has increased less than 8% but the rights have been preached 100% if the trader is wrong, the most that can be lost his $5000.

Arbitrage

Arbitrageurs are professional traders who take a picture of price discrepancies in the same or similar issues, watch for price fluctuations, and try to make profit by trading between the rights and new issue.

Example: Star rockets, Inc. Rights are selling at .75 and the stock is trading X. writes at the five dollars per share. In arbitrageur buys five rights and then applies the rights plus $60 award one you share.

Purchase five rights at .75 = $3.75
Plus: subscription price = $60

Total cost $6,375

Sell one share of stock $65
profit one dollar .25

In the real world, the arbitrageur naturally deals in more than one share, 1000 shares at one dollar .25 profit each is $1250 profit.

Note: arbitrage situations should be left to the professionals.

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From *You Can Be a Stock Market Genius*

Buy All Rights

Occasionally, instead of merely distributing the shares in a spinoff to shareholders free of charge, the parent company may give its shareholders the right to *buy* stock in one of its subsidiaries or divisions. One way to accomplish this is through something called a ***rights offering***. Most *rights offerings*, at least the type that most investors are familiar with, do not involve spinoffs. However, on the rare occasion that a rights offering is used to affect spinoff, it is worthwhile to pay extra close attention.

A rights offering is most commonly used when a company seeks to raise additional capital. In the usual case, rights are distributed to a company's current shareholders. These rights, together with cash or securities, allow shareholders to purchase additional shares (usually at a discount to the current market price). By giving all shareholders the right but not the obligation to buy stock at a discounted price, a company can raise needed capital while giving all shareholders in

equal chance to buy a newly issued stock. If current shareholders choose to participate in the rights offering by exercising their right to buy additional stock, their interests are not diluted by the company sale of new stock at a low price. Alternatively, if shareholders do not wish to purchase additional stock, they can often sell the rights they've received to participate in the bargain purchase on the open market. Rights that are not exercised or sold expire worthless after a set time period.

Rights offerings are also unhappily familiar to owners of closed-end funds. Closed-end funds, whether equity or bond funds, are like mutual funds except that the amount of fund shares issued is fixed (e.g., 20 million shares are sold at $10 per share in a public offering and those 20 million shares are bought and sold just like a common stock. One way for a closed-end fund to raise additional capital (and thereby raise the fund manager's advisory fees) is to issue more shares through a rights offering. As a general rule, only the fund manager of the closed-end fund benefits from this type of rights offering

But now for the good news. When it comes to the spinoff area, rights offerings can be extraordinarily opportunity for enterprising investors like you. Rights offerings are obscure and often confusing. Throw in the neglect and disinterest displayed by most institutional investors toward spinoffs, and you have an explosive combination. Generally, a parent company will distribute to its shareholders rights (free of charge) to buy shares in a spinoff. Holders of the rights will then have the right to buy shares in the spinoff for the next 30 or 60 days at a fixed dollar price or for a specified amount of other securities. The rights are usually transferable, which means that shareholders who do not wish to purchase shares of the spinoff can sell their rights in the open market and investors were not shareholders of the parent can participate in the rights offering by buying rights in the marketplace.

The timing, terms, and details of each rights offering are different. The important thing to remember is this: Any time you read about a spinoff being accomplished through a rights offering, stop whatever you're doing and take a look. (Don't worry, they are quite rare). Just looking will already put you in an elite (though strange) group, but--more important--you will be concentrating your efforts in an area even more potentially lucrative than ordinary spinoffs. You won't have to waste too much effort either. Before you get knee-deep into the intricacies of a particular situation, a quick examination of some superficial aspects of the rights offering and the motives of insiders will either get you excited enough to do some more work or persuade you to spend your time elsewhere.

So why does combining a spinoff with a rights offering create such a profitable opportunity? After all, a bargain element of a standard spinoff--indiscriminate selling of the unwanted spinoffs stock by parent company shareholders--is not present in a rights offering. In fact, in a rights offering almost the opposite takes place. Shareholders who use their rights to purchase shares are actually making an affirmative choice to buy stock in the new spinoff. Even the bargain element of a standard rights offering is not present in this situation. Unlike the usual rights offering, the rights do not ensure a bargain purchase. This is because, at the time of the offering, it is not known whether the spinoff will trade above or below the purchase price set in the rights offering. So where does the profit opportunity come from?

The answer lies in the very nature of a rights offering. If stock in a new spinoff is sold by the parent company through a rights offering, the parent company has, by definition, chosen not to pursue other alternatives. These alternatives could have included selling the spinoff's businesses to another company or selling the spinoff to the public at large through an underwritten public offering--both of which require the directors of the parent company, as fiduciaries, to seek the highest possible price for selling the spinoff's assets. But if the parent company uses a rights offering to sell the spinoff company to its own shareholders there is no need to seek the highest possible price. In fact, limiting initial buyers of the spinoff to parent-company shareholders and to investors to purchase rights in the open market is not usually the best way to maximize proceeds from the sale of the spinoff's businesses. However, in a rights offering, since all shareholders of the parent have an equal opportunity to purchase stock in the spinoff--even if a bargain sale is made-- shareholders have been treated fairly and equally.

While there is a general tendency for a spinoff to be offered at an attractive price in a rights offering (note: investors who buy rights in the open market must add the purchase price of the rights to the offering price to figure out their total cost), examining the structure of a rights offering can give important additional clues. One telltale sign of a bargain offering price is the inclusion of ***oversubscription privileges*** in a rights offering. Oversubscription privileges give the investors who purchased spinoff stock in the rights offering the right to buy additional spinoff shares if the rights offering are not fully subscribed. Since rights are obscure, require the payment of additional consideration, and usually trade illiquidly for small sums of money (relative to the value of parent- company holdings), there are often times when rights holders

neither exercise nor sell their rights. In a case where rights to buy 3 million shares are distributed, but rights to buy 1 million shares expire unused, oversubscription privileges allow those rights holders who purchase stock in the offering an additional opportunity to purchase the remaining 1 million shares on a pro-rata basis.

Insiders wish to increase the percentage of ownership in a new spinoff at a bargain price can do so by including oversubscription privileges in the rights offering. In certain cases, insiders may be required to disclose their intentions to oversubscribe for shares in the new spinoff in the SEC filings. The implications of this type of disclosure are obvious. Keep one more point in mind: When oversubscription privileges are involved, the less publicized the rights offering (and the lower the trading price of the rights), the less likely it is for rights holders to purchase stock in the rights offering, and the better the opportunity for insiders and enterprising investors to pickup spinoff shares at a bargain price.

While we could review other ways the rights offering process can result in big spinoff profits, it is more important to remember one simple concept no matter how a transaction is structured, if you can figure out **what is in it for the insiders**, you will have discovered one of the most important keys to selecting the best spinoff opportunities. In this next example--one of the most complicated and lucrative spinoff transactions of all time--practically the only way to figure out what was going on was to keep a close eye on the insiders. *(Follow the money as an old investigative reporter advised).*

In fact, the spinoff was structured in such a complex and uninviting fashion that I wondered whether the insiders had actually planned it that way. While I usually try to avoid investment situations that are difficult to understand, in this case there was a good reason to make an exception. After I determined that insiders had every reason to hope I wouldn't buy stock in the new spinoff, I had every reason to put in the time and effort required to understand what was happening.

While this situation may be too complex for most investors, that is not the important point. Even the experts blew this one. The only point you really need to take away is this: Don't forget to check out the motives of insiders. That point should come through loud and clear.

Case study *Liberty* Media/telecommunications

Question: How do you make half $1 billion in less than two years?

Answer: Start with $50 million and ask *John Malone*. He did it.

John Malone, CEO of Tele-Communications, took advantage of the spinoff process to create a situation that proved to be one of the great spinoff opportunities of all time. Anyone who participated in the *Liberty Media Rights Offering*, a spinoff from *Tele-Communications*, was able to earn 10 times his initial investment in less than two years. Although all shareholders of *Tele-Communications (TCI)*, the parent company, had an equal opportunity to participate in the rights offering and the whole world had the ability to purchase these same rights), the offering was artfully designed to create the most upside potential for those who participated, while simultaneously discouraging most investors taking advantage of the opportunity.

The entire spinoff was followed closely by the *Wall Street Journal* (much of it on the front page), yet almost everyone in the investment community missed the chance to make a quick fortune. Hopefully, the next time an opportunity like this rolls around, everyone will pass right by it again--everyone, that is, except you.

The whole scenario began in 1990. *Tele-Communications*, the world's largest cable operator, announced its preliminary intentions to spin off its programming assets like (*QVC* and the Family Channel) and some of its minority interests in cable-television systems--assets estimated to be worth nearly $3 billion. The announcement was made in response to continuing pressure from Washington to lessen the influence of large cable operators, and *Tele-Communications* in particular, on the cable industry. Under the leadership of *John Malone*, *Tele-Communications* had become a behemoth in the industry, wielding its considerable power to, among other things; dictate which program providers would be carried on its cable systems and on what terms. Due to its size (almost 25% of all cable households), *TCI* was often in a position to make or break the launch of a new cable channel and in some cases to use its clout to purchase equity interests in new channels. In response to what was perceived to be *Malone's* tight control over the industry, one proposal much discussed in Washington was legislation to limit the ability of cable-system operators to own interests in program providers.

The stated hope of the spinoff was to alleviate some of the pressure from Washington, and to give *Tele-Communications* greater flexibility, by separating the company's programming assets from its controlled cable systems. The other announced reason for the spinoff was more typical--shareholder value. The hope was that the spinoff would highlight the value of the parent company's ownership stakes in programming assets and its minority stakes in other cable systems. It was thought that these stakes had been lost amid *TCI*'s large portfolio of cable properties.

In March of 1990, *The Wall Street Journal* reported a new development. Rather than proceed with a usual spinoff, *Tele-Communications* had chosen to use a **rights offering** to affect the spinoff of its programming and other cable properties. Shareholders were to receive rights that would entitle them to exchange some of their *TCI* stock for shares in the new company. The rights offering was selected primarily for tax reasons. (If a rights offering is structured correctly, shareholders are only taxed based on the value of the rights received.)

The March announcement also disclosed something else. The spinoff would not be nearly as large as initially suggested. *TCI* was no longer planning to spinoff its 1 billion stake in *Turner Broadcasting*. In October 1990, just before the preliminary SEC filings were made, the distribution of *Tele-Communications* 50-percent-stake in the *Discovery Channel* was also taken a off the table. The value of the entity to be spun off had shrunk to well under 50% of original expectations. In fact, SEC filings made in November of 1990 and revised in January 1991 disclosed that the estimated value of the assets to be spun off into the new entity, *Liberty* Media, were down to approximately $600 million. As *TCI* had a total market capitalization of approximately $15 billion (about $6 billion of equity value and $9 billion in debt), the size of the *Liberty* spinoff was going to represent a drop in the bucket relative to the whole of *Tele-Communications*. In other words, *Liberty* was going to be an unimportant sideshow as far as most institutional investors were concerned (and potentially a classic spinoff opportunity for us).

According to newspaper accounts in January 1991, *Liberty's* portfolio of assets was going to include minority interests in fourteen cable franchises serving 1.6 million subscribers, and interest in 26 other entities including eleven regional sports networks, as well as minority interests in The Family Channel, American Movie Classics, Black Entertainment Television, and the *QVC* Shopping Network. These assets were estimated by *Tele-Communications* to have a value of approximately $600 million more or less equally divided between cable and programming interests. *The Wall Street Journal* reported that *"Liberty* will be a much smaller company that some had expected, issuing only about 2 million shares. On a fully diluted basis, *Tele-Communications* has about 415 million shares outstanding." According to the *Journal*, analysts described the almost-400-page prospectus as "one of the most complex transactions of its kind" and a cause of confusion to investors. Due to the exclusion of *TCI*'s interests and *Turner Broadcasting* and the *Discovery Channel*, some analysts felt that "*Liberty* may be perceived as a less attractive investment." The *Journal* went on to report, "On a pro forma basis, for the nine months ended September 30, 1990, *Liberty* reported a loss of $20.4 million after a preferred stock dividend requirement, and $9.77a share loss."

In sum, the picture of *Liberty* painted for most investors did not exactly shout, "Come on in, the water's fine!" If this basic description wasn't discouraging enough, there was still plenty more to come. ***Tele-Communications*** **shareholders were to receive one transferable right for every 200 shares they owned. Each right, together with 16 shares of *Tele-Communications*, could then be exchanged for one share of *Liberty Media.*** (The rights expired after thirty days.) At a price of $16 for a share of *TCI*, this translated to a purchase price $256 per share of *Liberty* (sixteen shares of *TCI* at $16 each). As stated, there were approximately 415 million fully diluted shares of *TCI*, a distribution of one right (to buy one share of *Liberty*) for every 200 *TCI* shares held translated into the approximately 2.1 million shares of *Liberty* to be issued.

For an institution that owns stock in a corporation with over 400 million shares, a stock with a capitalization of only 2 million shares would generally be considered not only risky and inappropriate, but entirely too illiquid to be included in its portfolio. A price of over $250 per share is also considered very awkward. Very few institutions would be willing to trade a very liquid stock with over 400 million shares outstanding for a small amount of a very illiquid stock. A search through the SEC filings for an explanation of the desire to have only 2 million shares of *Liberty* outstanding priced at $256 per share--as opposed to a more usual 20 million shares priced at approximately $26, or 40 million shares priced around $13--revealed the following clarification: "The exchange rates at which shares of *Liberty* stock will be issued in exchange for *TCI* stock were select solely for the purpose of limiting the aggregate number of shares of *Liberty* common stock initially to be issued to a maximum of approximately 2,000,000 shares. The exchange rates are not intended to be any indicator of the value of *Liberty*'s securities." My translation: "We picked 2 million shares because we wanted *Liberty* stock to appear unattractive to *TCI* shareholders."

Why do I say this? What advantage was there for *Liberty* to appear unattractive? For starters, the rights offering was structured so that the amount of *Liberty* shares issued would be equal to the amount of rights exercised. In other words, if only 1 million rights were exercised to purchase *Liberty* stock, only 1 million shares of *Liberty* would be issued--not the theoretical maximum of 2 million shares, if all *TCI*'s holders exercised their right to purchase stock. A sale of 1 million shares in exchange for $256 worth of *TCI* stock would equal a purchase price $256 million for all of the common equity in *Liberty Media* (instead of a potential $512 million cost if all 2 million shares were purchased). Since *Liberty* would still own the same assets, regardless of whether 1 million shares of common stock were issued or 2 million shares, anyone primarily interested in *Liberty*'s upside potential would much prefer to split that potential among fewer shares.

The deal had still another twist. Any common stock (the stock entitled to all upside appreciation in the value of *Liberty*) not sold in the rights offering would be replaced by preferred stock to be owned by *Tele-Communications*. Since, as we stated, *TCI* was transferring the same assets to *Liberty* regardless of whether $250 million worth of *Liberty* stock was sold or $500 million, this $250 million shortfall was to be made up through the issuance of $250 million of *Liberty* preferred stock to *TCI*. The terms of the preferred stock to be issued with very advantageous to *Liberty*. The bottom line was: The fewer shareholders that participated in the *Liberty* offering, the more leveraged the upside potential for *Liberty*'s stock. Better still, this leveraged upside would be achieved not through the issuance of debt but through the issuance of low-cost preferred stock. Since this preferred stock required no cash payments for fifteen years, carried a low rate of 6 percent, and had a fixed redemption price (i.e., no upside potential), this was clearly an attractive way to achieve the benefits of leverage for *Liberty* common stock--without the risk of taking on debt.

What were *TCI*'s insiders doing in the midst of all this confusion? For one thing, they weren't giving away free advice. According to *The Wall Street Journal*, *Tele-Communications*' top two executives, *Chairman Bob Magness* and *President John Malone*, have advised the company they each currently intend to exercise at least 50 percent of their exchange rights." Certainly not a rousing endorsement. But <u>if you looked a bit closer</u> there were some helpful hints available.

In the prospectus issued for the rights offering, located under the heading, "Executive Compensation," the following statement was found: "Pursuant to Dr. *Malone*'s employment agreement, <u>in lieu of</u> cash compensation for his services to *Liberty*, Dr. *Malone* will be granted non-transferable options to purchase 100,000 shares of *Liberty* stock at a price per share equal to $256." This translated to an option, not including any shares of *Liberty* purchased by *Malone* in the rights offering, for over $25 million worth of *Liberty* stock. Since, according to the same SEC filing, *Malone* owned approximately $50 million worth of *TCI* stock, the success of *Liberty* was going to be of material significance even to *John Malone*. If 2 million shares of *Liberty* were issued, an option on 100,000 shares was equal to an option on 5 percent of the total company. At 1 million shares of *Liberty* outstanding, this translated to a 10 percent share *Liberty*'s upside.

Looking a bit further, *Liberty* wasn't nearly as bad off as the newspaper summaries made it appear. The pro forma loss of $9.77 per share for the most recent nine-month period wasn't the whole story. The earnings (or lack of earnings) shown in the pro forma statements included the operations of only a very small portion **of *Liberty*'s assets**. Since the bulk of *Liberty*'s assets were made up of equity stakes in other companies, the revenues and earnings of most of these interests are not consolidated into *Liberty*'s income statement. (These stakes merely appeared on *Liberty*'s balance sheet at cost.) Even *Forbes* magazine (which I enjoy reading) completely blew it. Citing *Liberty*'s low level of revenues and earnings (I guess they didn't read the SEC filing), *Forbes* stated, "If you are a *TCI* shareholder, pass on the swap (exchanging *TCI* shares for *Liberty* shares through the rights offering. If you're considering buying *Liberty* stock…., don't chase it." So, while it's great to read business publications to find new ideas, it still pays to remember **Rule #1: Do your own work**. (I'm sorry, but this work does include at least *reading* the pro forma financial statements.

There was something else about *Liberty* that looked very exciting. According to the prospectus, management of *TCI* had the "expectation that *Liberty*'s Common Stock will initially represent only interest in any future growth of *Liberty*. What was this worth? Well, let's see. *Tele-Communications* held approximately $15 billion of cable assets. *Liberty* was going to be controlled by the same group of managers as *Tele-Communications*. *Liberty* was set up as a vehicle for *TCI*'s programming ventures. If *John Malone* was going to receive a big chunk of *Liberty*'s upside, maybe *TCI* could use some of its considerable muscle to help out little *Liberty*. Certainly, a new cable channel might benefit from cutting *Liberty* in for a piece of its equity. Perhaps this would help the new channel's chances of being carried over *Tele-Communications* vast cable network. Maybe *Liberty* could start up its own cable channels. These new cable channels would also have a huge head start if made available all of *TCI* subscribers. Hmmmm…. so many ways would all this upside be split?

The answer was, it depended on how many of *Tele-Communications* shareholders decided to use their rights to exchange shares of *TCI* for shares of *Liberty*. One press report summed up the general consensus nicely: *Liberty*'s problems include an illiquid stock, a terribly complicated asset capital structure, and lack of initial cash flow from its investments." A *Bear Stearns* analyst added, "We view this offer as having very limited appeal for most fund managers." *Shearson Lehman* stated, "to give up *TCI* to participate in *Liberty*, a highly uncertain value with limited liquidity, doesn't strike us as an especially good trade at virtually any price for most institutional investors." It should have been no surprise, then, when only about 36 percent of eligible rights to buy *Liberty* stock were exercised, resulting in only slightly more than 700,000 *Liberty* shares of a possible 2 million being issued.

The rights to buy shares in *Liberty* for $256 worth of *TCI* stock were freely traded and could have been purchased by anyone who so desire for a period of thirty days. The rights were available at a price of less than $1 per right--meaning the owner of 200 shares of *TCI* ($3,000 of *TCI* stock) received a right worth less than $1.

Most shareholders of *TCI* neither exercised nor sold their rights. Of course, Tele-Communication's top two executives, *Bob Magness* and *John Malone*, did end up exercising all of their rights to buy shares in *Liberty* after all. Together with his 100,000 options, *Malone* had been able to keep nearly 20 percent of *Liberty*'s upside for himself, compared with his participation in less than 2 percent of *TCI*'s upside. Although CEO of both entities, *Malone* was clearly incentivized to use *TCI*'s considerable clout in the cable industry to make sure that *Liberty* thrived. Then again, all *TCI* shareholders had an equal opportunity to participate in *Liberty*'s future--even if they weren't exactly led by the hand.

According to *Multichannel News*, a publication covering the cable industry,

TCI officials expected fewer than 50% of the eligible shares to participate. But as *TCI* disclosed details of the plan, Wall Street soured on *Liberty* illiquid stock, complicated asset capital structure and lack of initial cash flow.

John Malone, chairman of *Liberty* and president and CEO of *TCI* said he was a different to, not disappointed by, Wall Street's lack of enthusiasm.

Even though *Liberty*'s shareholder meetings can be held "in one telephone booth," *Malone* said that in structuring the deal, *TCI* executives realized it wouldn't be for everybody.

People had to make up their own minds, *Malone* said. "You can get yourself in trouble convincing people to get into things."

Sure. That makes sense. When you make ten times your initial investment in less than two years (to be fair, an outcome not even *Malone* could've expected), think of all the horrible tax problems caused unsuspecting investors.

END

P. S. Less than a year after the rights offering, *Liberty* split its stock--twenty for one-- the greater liquidity attracting both institutional investors and analysts.

You can locate and find new spinoff prospects by reading the business press and following up with SEC filings. Search for registration offerings with the words, "rights" or "subscription"

Partial spinoffs and rights offerings create unique investment opportunities.

Keep an eye on the insiders
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Below is a Wall Street Journal Article describing the planned spin-off of the above example.

Copyright Dow Jones & Company Inc Oct 25, 1990

NEW YORK -- *Tele-Communications Inc.* announced some details of its long-delayed plan to spin off most of its stakes in various cable channels and a fraction of its huge base of cable subscribers.

The nation's largest operator of cable systems said it hopes the spinoff will be approved by government agencies and shareholders in three months or perhaps a little longer, said Chief Financial Officer Bernard Schotters. The new concern is to be called *Liberty Media Corp.*

The spinoff plan would exclude *Tele-Communications*' two most valuable cable channel investments -- a roughly 25% stake in Turner Broadcasting System Inc. and 50% ownership of the Discovery Channel -- which together have a value that exceeds the myriad stakes that will be part of the new company.

There had been some speculation that *Tele-Communications* would abandon the plan, which it initially said was largely designed to help shareholders realize the value of the program assets. Now, the company is going ahead with the spinoff at a time when all media-company stocks have lost a substantial amount of value. That could augur poorly for shareholders that choose to swap part of their holdings in *Tele-Communications* for new stock in *Liberty Media*.

The spinoff plan was also conceived in part to mollify Washington, where many politicians had been intent on re-regulating cable companies. Although efforts to pass new regulations failed in this session of Congress, the subject is expected to be high on the agenda of some legislators in the next session. *Tele-Communications* has been perceived by some in Congress as too big and too powerful, and certain legislators had pressed for limits on vertical integration of cable systems and program networks.

Tele-Communications has already run into roadblocks in Washington in its efforts to expand further; the Federal Trade Commission has yet to approve a plan announced last year under for the company to acquire half of Showtime Networks Inc. from Viacom Inc.

Tele-Communications shareholders will be given the option of swapping an undisclosed portion of their company shares for shares in the new company. n off are likely to include the company's 50% interest in American Movie Classics, 20% of Black Entertainment Television, a 50% stake in the Family Channel, and a 30% stake in a home-shopping network. The 50% stake in wouldn't be included in the spinoff, *Mr.* Schotters said.

Tele-Communications managers, led by Chairman Bob *Magness*, control more than 50% of the company, and are expected to control a sizable stake in, which would include interests in cable systems holding roughly two million subscribers.

Tele-Communications, which would retain interests in cable systems with about 10.5 million subscribers, would transfer the assets to the new company and get preferred stock in -- but would retain all of its current $9.3 billion in debt and all losses stemming from the holdings.

The company would distribute to shareholders transferable exchange rights, which shareholders could sell in the over-the-counter market within a 30-day period or use to swap some of their shares for new shares in *Liberty*.

Credit: Staff Reporter of The Wall Street Journal

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Article on *John Malone*

The enrichment of *John Malone*
Loomis, Carol J. **Fortune**. New York: Nov 15, 1993. Vol. 128, Iss. 12; pg. 94, 1 pgs

Copyright Time Incorporated Nov 15, 1993

* On the fringe of the *Bell Atlantic* commotion is an amazing set of facts about *John Malone*, 52, president and guiding genius of *Tele-Communications* Inc. A bare three years ago, *Malone*'s stockholdings in *TCI* were worth $28 million. He has since laid out very little new money to buy shares of *TCI* or its progeny. Yet at this moment, with the *Bell Atlantic* deal trucking down the information highway, *Malone*'s *TCI* stake is worth more than $1 billion.

And did the typical *TCI* shareholder do as well? Absolutely not. *TCI* stock has been a reasonable winner, rising from about $10 in October 1990 to better than $30 in mid-October this year. But that's only a 3-for-1 gain--peanuts compared with the approximately 35-to-1 by which *Malone*'s *TCI* fortune has grown.

Basically, *Malone* grabbed the gold ring by making three moves, which as a package were legal but odoriferous. First, he sliced off part of *TCI*--a very valuable slice, as it turned out--and put it into a newly formed company, Second, he moved most of his own money out of *TCI* and into *Liberty*, continuing meanwhile to run both companies. Third, after *Liberty* had prospered, *Malone* set *TCI* to buying it back, which leaves *TCI* paying an enormous sum to recapture what it had owned in the first place. Having at that point baked this incredibly rich cake, *Malone* added the icing, agreeing to sell *TCI* to *Bell Atlantic*.

The oven was lit for this cake in late 1990, when *TCI* spun forth plans that months later, in March 1991, created *Liberty* Media. In effect, *TCI* split itself into two companies, keeping most of its cable franchises for itself and giving *Liberty* most of its programming assets--for example, its contracts to air sports events regionally. The split was carried out by an exchange offer: *TCI* shareholders were granted a certain and limited number of "exchange rights," each of which allowed a shareholder to trade 16 *TCI* shares for one of the new company, *Liberty*. Any shareholder making the exchange would in essence be ditching *TCI* and buying *Liberty*.

All this was spelled out in a prospectus of 337 invincibly complicated pages. Those shareholders getting to page 30 learned that both *Malone* and the company's chairman, Bob *Magness*, proposed to exercise at least 50% of their exchange rights. Perhaps this muted endorsement of *Liberty* should have encouraged *TCI's* other shareholders to tag along. But many were surely put off not only by the deal's complexity, but also by the small number of shares *Liberty* was scheduled to have outstanding and the price at which they were expected to trade--in the neighborhood of $250 a share. Those facts suggested that this stock would be unnervingly illiquid, a deterrent *Malone* no doubt intended.

In the end, while a lot of garden-variety shareholders didn't exercise their rights, *Malone* and *Magness* did, in size. When the dust cleared, *Malone* was holding 61,000 *Liberty* shares, or 8.5% of the number outstanding. That sweetly exceeded the 1% of *TCI* he had owned before the exchange.

With the *Liberty* stage thus set, a passel of good things happened to both company and boss. For Chairman *Malone*, cash compensation was not one of these things: He took none. But his contract granted him a ten-year option to buy an extraordinary bundle of additional shares--100,000--at $256 apiece. In October 1991, in a convoluted deal, he exercised the option. Essentially he bought $25,600,000 worth of *Liberty* stock with 800,000 *TCI* shares (whose disappearance lightened his holdings still more), a $13.5 million promissory note, and a mere $100,000 in cash. When this dust had settled, *Malone*'s purchase of those 100,000 *Liberty* shares had raised his stake in the company to an imposing 20%.

The good things that happened to *Liberty* included profits: Magically picking up steam after the deal was done, the company earned nearly $45 million in 1991, against $1.5 million in 1990 and a $5 million loss in 1989. The stock market was meanwhile developing a fever for companies that had programming assets--or "content" to move over the information highway. So, naturally, *Liberty* stock started to climb, helped out because Chairman *Malone* had engineered a series of stock splits--20-for-1, then 4-for-1, then 2-for-1--that splendidly restored the liquidity he'd originally stripped from the stock.

The final, wonderful things that happened to *Liberty* occurred just this fall. First, *TCI*--led by President *Malone*--announced on October 8 that *TCI* would buy *Liberty*, thereby bringing this beautiful, bouncy baby back into the fold. The value placed on *Liberty* was about $3.5 billion, which is--wow!--around 17 times the company's market value back in March 1991. Of the $3.5 billion, more than $700 million is set to be *Malone*'s.

Five days later, *Bell Atlantic* swung in with its astounding plan to hand out mega-amounts of a new Class B stock to buy *TCI*, including *Liberty*. Just how many shares will be paid can't yet be said: The number will depend on both regulatory decisions and *TCI*'s vital statistics when--and if--the deal closes. One conceivable number, however, is around 400 million shares.

The next question is what those Class B shares will be worth, and that depends on the general market for *Bell Atlantic* stock. But say each B share is worth $54, which is the price that the deal's negotiators focused on in setting terms. That would give *TCI* shareholders close to $22 billion in stock. *Malone*'s slice of that would be just over $1 billion.

Maybe that big, round figure is what lured him to sell. In any case, turning $28 million into $1 billion or better isn't bad for a three-year run. Not bad at all, unless you dwell on how *Malone* got there.

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TCI's Chief Got $26 Million in Salary, and by Exercising Stock Options in '91

TCI's Chief Got $26 Million in Salary, and by Exercising Stock Options in '91

Roberts, Johnnie L. **Wall Street Journal**. (Eastern edition). New York, N.Y.: Apr 21, 1992. pg. B6

Abstract (Summary)

Tele-Communications Inc CEO *John* C. *Malone*, who is also chairman of the company's *Liberty* Media Corp spinoff, received about $26 million in salary and by exercising stock options in 1991. *TCI*'s chairman, Bob *Magness*, received about $17 million in salary and stock options for the year.

Full Text (702 words)

Copyright Dow Jones & Company Inc Apr 21, 1992

NEW YORK -- *John* C. *Malone*, chief executive officer of cable-TV giant *Tele-Communications* Inc. and chairman of its *Liberty* Media Corp. spinoff, received some $26 million in salary and by exercising stock options last year.

To exercise the options to buy 1.2 million *TCI* shares for $1.10 apiece, *Mr. Malone* paid the company 80,000 *TCI* shares priced at $16.50 each. He then sold 400,000 shares back to *TCI* at $16.50 apiece, or a total of $6.6 million, according to a filing with the Securities and Exchange Commission.

Mr. Malone received $1.5 million of the $6.6 million up front, deferring the remaining $5.1 million until April 1 of this year and earning interest on the unpaid portion at a rate of 9% a year, the SEC filing says. *Mr. Malone*, one of the cable industry's most powerful figures, received a salary of $453,000 last year. He had received the options a decade ago as part of his contract with the world's largest operator of local cable systems. *TCI* Chairman *TCI*'s chairman, *Bob Magness*, received some $17 million in salary, stock options and a related payment last year, the SEC filing shows. The compensation included salary of $453,000 and options *Mr. Magness* exercised to purchase 900,000 shares for $1.10 each, a gain of about $13 million. In exchange for forgoing options to buy 300,000 additional shares, he received a payment of $4.3 million, which is to be used to pay federal and state taxes on his stock gains.

The 10-K filing by *TCI*, based in Denver, also gives details of numerous links between it and *Liberty* Media, which was spun off last year in a bid to quell criticism that *TCI* dominates the cable business. Among other things, *TCI* reacquired some of the very assets it had spun off to *Liberty* only months after creating *Liberty* Media.

In addition, *Liberty* awarded *Mr. Malone* options to buy 20,000 *Liberty* shares a year for each of the next five years for $2.56 apiece. In October, the company let him exercise all of the options immediately to buy 100,000 shares for a paper gain of $7.4 million.

Instead of paying cash to *Liberty* Media for the 100,000 shares, *Mr. Malone* gave *Liberty* 800,000 *TCI* shares that he had owned. But because he is *Liberty*'s chairman, a director, and by far its largest shareholder, he is deemed to still be the beneficial owner of the *TCI* shares that he paid to the spinoff.

Mr. Malone received the options in lieu of salary as *Liberty*'s chairman -- a job that occupies about one-fifth of his time, according to earlier SEC filings. The $7.4 million paper gain was part of the $26 million in compensation that he was paid last year. Adjusted for a recent 20-for-1 split, the *Liberty* shares involved now total two million and are valued at about $80 million at recent prices in over-the-counter trading.

An official of *TCI* said he had no comment.

As of Feb. 1 of this year, *Mr. Malone* and his wife, Leslie, held 1,028,800 *TCI* Class B shares, which have 10-for-1 voting power, and a sprinkling of Class A shares.

TCI and its spinoff engaged in a flurry of transactions in the last two days of 1991, the filing shows. Among them, *TCI* agreed to borrow as much as $100 million from *Liberty* on a short-term basis and then drew down $22 million, which has since been repaid with interest.

In one transaction Dec. 31, *TCI* also received $28 million from *Liberty* for certain securities of *QVC* Network Inc., a home-shopping channel in which *Liberty* already held a 30% stake.

Other dealings included *TCI*'s repurchase of the 49% stake in Cable Adnet Partners that it had transferred to *Liberty* in the spinoff in March 1991. *TCI* also purchased from *Liberty* two million shares of International Cablecasting Technologies Inc., another asset that it had spun off to *Liberty*. So far this year, *TCI* and *Liberty* have formed a partnership to buy and operate cable-TV systems. The two companies agreed to contribute certain noncash assets and as much as $25 million in cash.

In over-the-counter trading yesterday, *TCI* Class A shares fell 12.5 cents to $17.625.

Credit: Staff Reporter of The Wall Street Journal

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Copyright Forbes Nov 8, 1993

The *BellAtlantic/TeleCommunications*, *Inc.* merger wasn't made in heaven. It was made on Wall Street. In the annals of financial wizardry, the magic event of the early 1990s may well be the transformation of *Bell Atlantic* common shares from a stuck-in-the-mud yield stock selling at a single-digit multiple of earnings into a growth stock selling at a double-digit multiple of its cash flow.

Without this financial magic the deal could never have been proposed, for *Bell Atlantic* shareholders would have screamed bloody murder. If the merger goes through, *Bell Atlantic*'s reported earnings will be seriously diluted. *Bell* will issue up to 400 million new shares to *TCI* shareholders. As a result, *Bell*'s pro forma earnings next year will probably be only $2.30 a share instead of the $3.55 expected without the merger. If a technology stock faced an earnings decline of that magnitude, the stock market would kill it. Yet *Bell Atlantic* stock rose almost eight points after the announcement, adding $3.3 billion to its market capitalization.

Common wisdom has it that dilution hurts a stock's price. Why was it different this time? Because *Bell Atlantic* convinced its investment audience that with the mercer it should no longer be priced like a telephone company. It should be priced like a cable company. Telepone companies sell on yield and on a multiple of earnings, Cable companies sell on a multiple of cash flow--and cash flow is always much higher than GAAP earnings.

So the *Bell Atlantic*, *TCI*/*Liberty* Media deal is a pact to make over the identity of a utility whose revenues were growing only 1% a year. Mix a big hunk of cable hardware with a strong potion of spicy software and--presto--you have a vehicle tailor-made for every growth and income fund in the country. Who cares that *TCI* loses money? Who cares that *Bell Atlantic* must book $11 billion in goodwill and write it off against earnings? On Wall Street, perception is what counts, and the new perception is a lot better than the old one.

Bell Atlantic wasn't willing to cut off its $2.68 dividend to its longtime stockholders. Salomon Brothers, *Bell Atlantic*'s investment adviser, figured how to deal with that. *TCI* shareholders would get no dividend-paying *Bell Atlantic* stock, meaning the merged company could avoid cutting the dividend and yet save about $1 billion a year in cash.

It was a neat balancing of conflicting interests. *TCI* wanted to hold on to cash to finance its expansion. Explains *William O. Albertini*, *Bell Atlantic*'s chief financial officer: "We had to convince [*TCI* Chief Executive] *John Malone* we were willing to change our ways from an earnings-per-share approach and show him a willingness to say we won't play the dividend and high-yield game."

So, irony of ironies: The stock market has rewarded *Bell Atlantic* for diluting its earnings. At recent prices, *Bell Atlantic* will sell for almost 30 times next year's earnings--assuming the merger goes through. Thus it moves from a below-market multiple to an above-market multiple.

Financial wizardry, after all, is the specialty of *John Malone*, the driving force behind *TCI* and *Liberty* Media.

Take the way *Malone* turned a $42 million investment in *Liberty* Media less than three years ago into a fortune worth $840 million today. In March 1991 he traded shares of *TCI* for voting control of *Liberty*, which held the bulk of the cable company's programming assets.

While *Liberty* Media shares have appreciated about 20 times over the past 2-1/2 years, the stock price of its sister company, *TCI*, has risen in value only by 2-1/2 times. By thus switching his holdings, *Malone* made a huge profit.

Under the terms of the proposed merger, *Malone* must put *TCI* and *Liberty* back together again. If he had simply held his *TCI* shares rather than taking *Liberty* shares, *Malone* would be worth maybe $125 million, not the $1 billion or so of *Bell Atlantic* stock he will get.

But what happens if the deal doesn't go through**? It is sure to meet lots of opposition**. *(Editor—this should alert you to opportunity—the "ick" factor)*

To begin with, *John Malone* has made many enemies. One of the most bitter is Sumner Redstone of Viacom, and Redstone is a litigious man.

In company with Viacom's proposed merger partner, *Paramount* Communications' Martin Davis, Redstone recently visited his favorite Democratic senators, Howard Metzenbaum and Edward Kennedy. Redstone and Davis also looked in on the Federal Communications Commission, and the White House, where they saw Roy Neel, deputy chief of staff to the President.

Was Redstone seeking to poison the well for *Malone* and *Bell Atlantic* with the federal government, whose agencies must rule on the merger?

Probably not, but Redstone will want to get something out of the deal for himself. One possibility: Forcing *Malone* to withdraw his rival bid for control of *Paramount*.

Malone is vulnerable to criticism on several points. Well after he had put the bulk of his assets into *Liberty* Media, *TCI* essentially guaranteed contracts in the billion-dollar range for a pay-TV service co-owned by and *Liberty*. There is at least a whiff of conflict of interest here.

Moreover, *Malone* and *TCI* Chairman Bob *Magness* insisted on getting a 10% premium for their Class B shares in *TCI* and *Liberty* Media. It's rare that such a premium has been paid for the controlling class of stock in a merger.

But the odds are high that the deal will eventually go through--perhaps with conditions attached.

There has been endless speculation in the media that *John Malone* will eventually push aside *Bell Atlantic* Chairman Raymond Smith. That's most unlikely. *Malone*'s generally combative attitude has made him unpopular in Washington--one reason he will be content to let *Bell Atlantic*'s politically astute: Smith quarterback the deal. With a reported promise of 5 seats on a 15-person board, *Malone* doesn't need a chief executive title to get his way.

Malone wants to pursue his dream of building a mighty communications and entertainment empire. He will need up to $5 billion to buy the smart boxes that all of *TCI*'S 14 million cable subscribers will need to access multimedia offerings--and billions more to upgrade to fiber-optic cable that will connect the main cable system to consumers' homes. *Bell Atlantic* will provide the piggy bank he needs.

And what a piggy bank it will be. "The cash flow coming out of the merged companies is enough to fund all the development activities and still have free cash flow of $1 billion or more," says *Bell*'s Albertini. Operating cash flow before interest, taxes, dividends, depreciation and capital expenditures will be $7.5 billion for the combined company. That's a lot of money, but it's the kind of money you need to be a big player in the communications and entertainment business these days.

On paper, at least, Bob *Magness*, 69, and his family of Englewood, Colo. (FORBES, Oct. 18) will be even bigger winners than *John Malone* if the *Bell Atlantic*/*TCI* merger flies. The *Magness*es own 4.6 million Class A shares and 27.4 million Class B share in *Tele-Communications*, Inc. (assuming all options are exercised), at market prices today worth $1.15 billion. *Malone*'s *TCI* shares are worth about $71 million. The *TCI* shares will exchange 1-for-1 for shares in a new holding company formed by the combination of *Liberty Media* and *TCI* before the *Bell Atlantic*/*TCI* merger takes place.

Both parties also own shares in *Liberty Media*. *Magness* has 10 million Class B shares, and *Malone* 26 million. At current prices, these stakes are worth $320 million and $840 million, respectively. In the *TCI*/ combine, *Magness* will have 9.75 million shares, and *Malone* 25.35 million.

Adding this all up--and assuming subsequent events don't change some of the price relationships--*Magness* will receive 29.6 million *Bell Atlantic* shares, and *Malone* 19.6 million. Valuing their nondividend-paying *Bell* shares (see story) at 54, about ten points below the dividend stock, *Magness* will come out with about $1.5 billion, *Malone* with about $1 billion.

Billionaires are getting common in the world these days, but few, if any, have gotten there as fast as *Magness* and *Malone*.

M. S.
Wall Street Sour on *Liberty* Plan

Wall Street Sour on *Liberty* Plan

NEW YORK - Wall Street's initial enthusiasm for *Tele-Communications* Inc.'s spin-off, *Liberty* Media, has waned, with many analysts now sour on owning the stock.

When *TCI* first disclosed its plans to spin off many of its minority stakes in cable programmers and operators in March 1990, investors responded by pushing *TCI*'s shares up in anticipation that the value of these largely hidden assets would be uncovered.

But while analysts and money managers still say the spin-off is still good for *TCI*, few express much appetite for investing in *Liberty* itself, and some are encouraging investors to avoid the stock. *Liberty*'s problems include an illiquid stock, a terribly complicated asset and capital structure, and lack of initial cash flow from its investments.

"We view this offer as having very limited appeal for most fund managers," Bear Stearns analyst Mary Kukowski said in a recent report.

TCI treasurer *Bernard Schotters* has estimated for weeks that 50 percent or fewer of eligible *TCI* shares will be exchanged for *Liberty*. But given the negativity on the street, some analysts believe that's too optimistic.

"I would certainly expect it to be under 50," said Mark Riely, a partner in money management firm *MacDonald Grippo Riely*, who believes *Liberty* is suitable for a limited number of investors. "How far, I don't know."

TCI investors have to decide by March 19 whether to swap a portion of their shares for *Liberty* stock. Shareholders have been given rights to exchange up to 8 percent of their *TCI* holdings for *Liberty* stock at a ratio of 16 *TCI* shares for one *Liberty* share. Investors wanting to own more can buy the publicly traded rights to swap additional *TCI* shares.

But so far, there's no groundswell of demand for *Liberty*. Some financiers say *Liberty*'s disadvantages outweigh the expectation that *Liberty* will grow more rapidly than *TCI*.

Liberty "poses unnecessary financial risk ... and immeasurable potential for share appreciation," Shearson Lehman Brother's analyst *Christy Phillips* wrote recently. "We believe that (*TCI*) stock can offer the CATV investor better long-term rewards with substantially less risk than *Liberty* stock."

Despite *Liberty*'s growth potential, "to give up (*TCI*) to participate in *Liberty*, a highly uncertain value with limited liquidity, doesn't strike us an especially good trade at **virtually any price** for most institutional investors."

Top on the list of analysts' qualms is the lack of liquidity in *Liberty*'s stock, making it very tough to trade into and out of the shares. Based on the exchange ratio, *Liberty*'s stock is going to be worth $225-$240 per share, an awkward trading price. But more important, *Liberty* will issue fewer than 2 million shares even if the offer is fully subscribed, versus 355 million outstanding for *TCI*.

Next is the difficulty of valuing the company. *Kukowski* noted that *Liberty* will be a "hodgepodge" of partial stakes mostly in private companies and "independently verifiable information on many of the entities involved will be impossible to come by."

But one money manager with sizable cable holdings was enthusiastic about *Liberty*. "I've been investing with *Malone* and those guys for a very long time," the manager said. "I've got confidence and I'm going to do it again." The manager asked not to be identified so as not to tip his hand to the market.

The illiquidity is a problem, but the manager views *Liberty* as a long, long-term investment so he said he won't need to trade much. While *Liberty*'s cash flow will be negligible, "this company is not going to need very much cash," the manager said.

Donaldson Lufkin Jenrette analyst Dennis Liebowitz agreed, saying that **"The whole Street is negative, and you have to be suspicious of uniformly held reasons."** *(Editor: Again, hatred, negativity is your friend in looking for bargains; another alert).*

Poor participation in the exchange offer could dramatically affect *Liberty*'s balance sheet. *Liberty* has two ways of paying *TCI* for the assets its acquiring: either *TCI* shares or newly issued preferred stock. The smaller the number of *TCI* common shares *Liberty* gets, the more preferred shares it has to issue to the MSO, raising *Liberty*'s leverage.

According to *Liberty*'s prospectus, for example, if 50 percent of the eligible *TCI* shares participate, *Liberty*'s equity will stand at $132.5 million. If 75 percent of the shares subscribe, that equity increases to $258 million. But if just 25 percent subscribe *Liberty*'s equity plummets to just $7 million. To some financiers, that's not a problem. The big increase in debt comes from an increase in Class C zero-coupon preferred shares paid to *TCI*. "Those are 6 percent zero coupons," the money manager said, "which is about the best you can get. So I hope fewer participate."

Schotters added that because the preferreds carry a 10-year term and will be owned by a single holder, he expects that lenders will not regard them as debt. "The banks will see those as hard equity," *Schotters* said.

The big question on Liebowitz's mind is how fully *TCI* chairman *Bob Magness* and president *John Malone* will participate. The *Liberty* prospectus states that the pair's "current intention" is to swap 50 percent of their eligible *TCI* shares - 4 percent of their total holdings - for *Liberty*.

But *TCI* said that does not obligate them to actually swap that much of their *TCI* stake. "If they tender half, I'd tender half," *Liebowitz* said. But he very badly wants to know beforehand exactly what *Magness* and *Malone* will actually do. *Malone* did not return a call seeking comment.

Liberty CFO Dobb Bennett said *TCI* has "no obligation to publicize what they actually did" in advance of the exchange. "The world will not know until afterward," he said.

October 7, 1993

***Tele-Communications* Seen In Buyout of *Liberty* Media**

By GERALDINE FABRIKANT

At a time when the television industry is growing increasingly wary of the power of *John* C. *Malone*, *Mr. Malone*, head of the nation's largest cable company, is considering a $3.3 billion stock deal to regain full control of a programming arm he spun off two years ago to please regulators.

According to an executive familiar with the proposed transaction, *Tele-Communications* Inc., which *Mr. Malone* controls, would buy back the roughly 95 percent stake it does not own in the *Liberty* Media Corporation, a supplier of cable television programming, and reintegrate the two companies.

Mr. Malone is looking at such a move, in part because guidelines issued by regulators last month gave some cable operators more leeway to own cable systems and programmers.

Also, several analysts said, the deal may be attractive to *Mr. Malone* because *Tele-Communications* stock has lost some of its sizzle since *Mr. Malone* transferred most of his own investments to *Liberty* Media.

But *Mr. Malone* may also be motivated by the fact that a *Liberty* deal could make it easier for *QVC* Inc., a home shopping service in which *Liberty* is the largest shareholder, to raise its $9.5 billion offer for *Paramount Communications Inc*.

Liberty owns 22.2 percent of *QVC*, and while it has promised to back up *QVC* in its bidding war with Viacom Inc. for *Paramount* with a $500 million infusion of cash, the balance sheet of *Tele-Communications* is stronger than *Liberty*'s. By reabsorbing *Liberty*, *Tele-Communications* could more easily pump cash directly into *QVC*, one analyst said.

QVC's two other major holders are *Comcast*, which owns 12.5 percent of the stock, and Arrow Investments, a company owned by *QVC*'s chairman, *Barry Diller*, who owns 12.6 percent of *QVC*'s stock. The two companies, together with *Liberty*, vote as a block, despite the disparity in ownership size.

However, any form of large *Tele-Communications* investment in *QVC* could pose new risks for *QVC*'s principal owners. For one, it would shift power over *QVC* to *Mr. Malone* and away from *Comcast* and *Mr.* Diller.

One executive with knowledge of *QVC* said that both *Comcast* and *Mr.* Diller may be leery of such a shift and might prefer an outside investor, like a telephone company, if *QVC* decides to lift its offer for *Paramount*. Executives at *Comcast* could not be reached last night for comment, and an executive close to *QVC* dismissed that theory.

QVC's $9.5 billion bid now exceeds Viacom's $7.3 billion offer, but Viacom is expected to increase that, prompting *QVC* to line up new capital of its own. A realignment of *Tele-Communications* and *Liberty* would be especially handy if *QVC* chooses to increase the cash portion of its bid for *Paramount*, according to *John* Tinker, an analyst who follows the cable industry for Furman Selz & Company.

Mr. Tinker said *Tele-Communications* had $400 million in free cash flow last year, and though *Liberty* owns a host of assets, it does not have a comparable cash flow that it can tap as easily. *Mr.* Tinker noted that *Tele-Communications* could also choose to make a separate investment in *QVC* if it did not merge with *Liberty*, but he said such an approach would be unwieldy.

One reason for the strong financial condition of *Tele-Communications* is its size -- it reaches roughly 20 percent of all cable subscribers.

To address the concerns of regulators in 1991, *Tele-Communications* spun off roughly 95 percent of *Liberty* into a separate, publicly traded company. *Mr. Malone* remained firmly in charge, however, retaining 20 percent of the stock personally. The spinoff was intended to defuse Government criticism over *Mr. Malone*'s ownership of both cable programming and cable systems. F.C.C. Decision

Last month, the Federal Communications Commission said that a cable operator could not control more than 30 percent of all cable homes or have ownership interests in more than 40 percent of the programming channels on its cable systems. Since *Tele-Communications* and *Liberty* fall well below both of those thresholds, *Mr. Malone* apparently thinks it is safe to stitch the two companies back together.

The plan to buy back *Liberty* calls for *Tele-Communications*, which owns 6.5 million *Liberty* shares, to buy back the 123.6 million *Liberty* shares it does not already own. Stock in *Tele-Communications* closed yesterday at $26.625, down 12.5 cents, and stock in *Liberty* rose $1.50 to $27 on heavy volume.

Financially, *Mr. Malone* would do nicely under the deal. Since the spinoff from *Tele-Communications* two years ago, *Liberty*'s stock has soared more than 1,400 percent. By reabsorbing *Liberty* into *Tele-Communications*, *Mr. Malone* could realize a huge windfall without paying capital-gains taxes as long as *Tele-Communications* pays for the deal with stock, *Mr.* Tinker, the analyst, said.

A *Tele-Communications* spokesman declined to comment on the plans, and *Liberty* officials did not return phone calls seeking comment.

Mr. Malone is hardly the only party willing to come to *QVC*'s aid. On Tuesday, *QVC*'s financial advisers at Allen & Company presented *Paramount*'s investment bankers at Lazard Freres with a pledge from six commercial banks to provide $3 billion in loans to finance the cash portion of its offer. In addition, *Liberty* and *Comcast* had previously agreed to invest $500 million apiece in *QVC* in exchange for convertible preferred stock. Questions Raised

Several executives partial to Viacom raised questions yesterday about the firmness of *QVC*'s bank commitments after seeing the documents. They noted that there were no definitive terms yet on the preferred stock, and if the banks did not like the terms of the preferred stock, they could back out.

These executives said that the banks' right not to finance the deal might be interpreted to mean that *QVC*'s bid is not fully financed. In contrast, these executives said, the Nynex Corporation and the Blockbuster Entertainment Corporation both have committed themselves to purchase preferred stock in Viacom without further negotiations.

However, others said the *QVC* financing represented a fairly standard commitment and had few irregularities.

An executive close to *QVC* had said that the company was paying only $2 million to the banks in commitment fees, a small amount when viewed against the fees in some of the deals of the late 1980's. *Paramount*'s board has said it will consider *QVC*'s bid on Monday.

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Malone's total take from _TCI_ $26.4M. (_John Malone_, chief executive officer of _Tele-Communications_ Inc. and _Liberty_ Media Corp.)

Article from:Multichannel News Article date: April 27, 1992
Author: Higgins, *John* M.

Last year was a profitable one for *John Malone* as he booked $26.4 million in total compensation from *Tele-Communications* Inc. and *Liberty* Media Corp.

Last year was a profitable one for *John Malone* as he booked $26.4 million in total compensation from *Tele-Communications* Inc. and *Liberty* Media Corp.

Malone was recently rated one of the most underpaid CEOs in America, with the United Shareholders of America ranking him 22nd. That assessment was based on his 1990 total compensation from *TCI* of just $400,000.

He made a lot more last year. *TCI*'s filings with the Securities and Exchange Commission show that *Malone*'s salary came to about $300,000 for 1991, plus another $150,000 in deferred compensation booked but not paid from prior years.

But it was stock options where *Malone* made the most profits. *Malone* held options to buy 1.2 million shares of *TCI* stock at a price of $1.10 per share that were granted to him in 1982. When he exercised the options last June, *TCI*'s share price stood at $16.50, so the value to him totaled $15.40 per share or a total of $18.5 million. *Malone* paid for the stock not with cash, but with other Class B share he had acquired earlier. In addition, the year-old *Liberty* Media granted *Malone* an option to acquire 100,000 shares at $256 each. He exercised the option Oct. 24 when the company's stock traded at $330. The value to *Malone* totaled $74 per share, or $7.4 million.

Those options had been originally been designed as an incentive that would pay out over five years. But *Malone* obtained more favorable terms last October when *Liberty* gave him all of the options at once and allowed him to exercise them immediately. Again, he didn't pay much cash. *Malone* "paid" *Liberty* mostly 800,000 shares of *TCI* Class B stock, plus a note now totaling $13.9 million. *Malone* put up just $100,000 in cash. The cash portion came from *Malone*'s sale of his personal stock in *QVC* Network Inc. to *Liberty*.

Malone draws no salary from *Liberty*. Because of the huge run-up in *Liberty*'s price, the stock *Malone* bought in October is now worth about $88 million.

Defending *Malone*'s *TCI* compensation, senior vice president of communications and policy planning Robert Thomson said that *Malone*'s gains from his *TCI* options should be spread out over the 10 years he held them. He added that *Malone* received no other options during that time and drew a relatively low salary from *TCI*. **END**

***Attunity* Commences**
Rights Offering.

Article from:PR
Newswire
Article date:April 13,
2009

Rights Offering Enables Debt Restructuring With Minimum Dilution to Shareholders

Rights Offering Enables Debt Restructuring With Minimum Dilution to Shareholders

BURLINGTON, Massachusetts, April 13 /PRNewswire-FirstCall/ -- - To Host Investors Meeting on Monday, April 27th

CASE STUDY

Attunity Ltd. (OTC BB: ATTUF.OB), a leading provider of real-time event capture and data integration software, announced today that it has commenced a rights offering to raise up to $1.2 million in gross proceeds. The rights offering is designed to enable *Attunity* to complete its recent debt restructuring activities, including an extension of the repayment of its $2 million from Plenus Technologies ("Plenus").

Rights Offering

Attunity is distributing subscription rights to its shareholders to purchase an aggregate of up to 10,000,000 ordinary shares for a subscription price of $0.12 per share. The subscription price reflects a 7.7% discount to the closing price of ordinary shares (i) on April 6, 2009, the record date, and (ii) on April 1, 2009, the last reported closing sale price on the OTCBB prior to the determination of the subscription price the board of directors of *Attunity*.

Each shareholder of record as of the close of business on April 6, 2009, will receive, at no charge, 0.43 non-transferable subscription rights for each share. Each whole subscription right will entitle the record holder to purchase one ordinary share at the subscription price of $0.12. Purchasers of ordinary shares in the rights offering will also receive, at no additional cost, a three-year warrant exercisable at $0.12 per share to purchase ordinary shares at a rate of one such warrant for each two shares purchased pursuant to the exercise of subscription rights.

In the framework of the rights offering, *Attunity* secured a standby commitment by Shimon Alon, Chairman and CEO of *Attunity*, to purchase unsubscribed securities in the rights offering to the extent required by the Company to raise a minimum of $360,000 in the offering.

The rights offering will expire at 5:00 p.m., EST, on May 4, 2009, unless the Company extends the exercise period.

Debt Restructuring

As previously reported, the Company secured approximately $390,000 of short-term convertible loans in November 2008, and, in January 2009, the maturity date of the $2 million convertible notes was extended from May 2009 to November 2010, subject to the conversion of the short-term loan into equity, which occurs upon an equity financing in which *Attunity* raises at least $750,000 (including the $390,000 of the loan).

Attunity also announced today that it has amended the loan agreement with Plenus, such that, among other things, its repayment of the $2 million outstanding loan amount will commence in February 2010 rather than March 2009, provided that the Company will raise at least $750,000 in debt or equity by July 1, 2009. Pursuant to the amendment, the annual interest rate was changed from LIBOR plus 4.25% to a fixed rate of 9.0%, and repayment of the principal amount will now be made by 24 equal monthly payments rather than twelve. In addition, if *Attunity* undergoes a change of control or similar fundamental transaction until March 2014, Plenus will be entitled to an additional amount equal to the higher of 15% of the outstanding loan amount and 15% of the aggregate proceeds payable to the shareholders in connection with such transaction.

The rights offering, including the standby commitment, will enable *Attunity* to satisfy the conditions required in order to defer the repayment of the *Plenus* loan and the convertible notes and will trigger the conversion of the short-term loan into equity, as part of the rights offering.

Additional details about the foregoing transactions are included in *Attunity*'s annual report on Form 20-F filed with the SEC on April 6, 2009.

Management Comments

"Despite the difficulties in the capital and credit markets, we were able to implement several debt restructuring activities. We have chosen to use the mechanism of a rights offering in order to ensure the satisfaction of the conditions required to defer the repayment of $4 million of outstanding loans, while keeping the dilution to our shareholders at a minimum. The rights offering also provides our existing shareholders with a fair and equal opportunity to purchase shares directly from the Company," stated Shimon Alon, Chairman and CEO of *Attunity*.

"We believe that this financing plan will address the Company's working capital and capital resource requirements, enabling us to be well positioned to meet the challenging market conditions in 2009," *Mr.* Alon concluded.

Investors Meeting

Attunity also announced today that it will host an investor information meeting for shareholders and other interested parties on Monday, April 27, 2009 at 11:00 a.m. (Israel time) at the Company's offices at Kfar-Netter Industrial Park, Kfar-Netter, Israel. Shimon Alon, Chairman & CEO, and Dror Elkayam, VP Finance, will make investor presentations at the meeting.

For more information, please call Dror Elkayam at +972-9-899-3000 or e-mail dror.elkayam@*Attunity*.com, no later than April 26, 2009.

Important Note

A registration statement relating to the rights offering was filed with the Securities and Exchange Commission and was declared effective on April 8, 2009. The terms and conditions of the rights offering, as well as instructions regarding participation in the rights offering, are set forth in the prospectus dated April 9, 2009 that forms a part of the registration statement. The prospectus is being mailed to *Attunity* shareholders of record on the record date, and is also available from MacKenzie Partners, Inc., the information agent for the rights offering, by request by calling +1-212-929-5500 (collect) or toll-free at +1-800-322-2885, as well as through the SEC's website at http://www.sec.gov/.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction. Nothing in this press release should be construed as investment advice or otherwise as an invitation to engage in investment activity. No prospectus related to the rights offering has been, or will be, filed for registration with any authority outside of the United States. You should carefully read the prospectus to be delivered by *Attunity*, including the information incorporated by reference therein and consider the risks and uncertainties described therein, before deciding whether or not to exercise your subscription rights.

About *Attunity*

Attunity is a leading provider of real-time event capture and data integration software. Using our software solutions, *Attunity*'s customers enjoy dramatic business benefits by driving down the cost of managing their operational systems, creating flexible, service-based architectures for increased business agility, and by detecting critical actionable business events, as they happen, for faster business execution.

Attunity has supplied innovative software solutions to its enterprise-class customers for nearly 20 years and has successful deployments at thousands of organizations worldwide. *Attunity* provides software directly and indirectly through a number of strategic and OEM agreements with partners such as Microsoft, Oracle, IBM, HP and SAP/Business Objects. Headquartered in Boston, *Attunity* serves its customers via offices in North America, Europe, and Asia Pacific and through a network of local partners. For more information, please visit us at http://www.*Attunity*.com/.

BURLINGTON, Massachusetts, May 13, 2009 /PRNewswire-FirstCall via COMTEX/ -- *Attunity* Ltd. /quotes/comstock/11k!attuf (ATTUF **0.11**, -0.01, -4.35%) , a leading provider of real-time event capture and data integration software, announced today the successful completion of its $1.2 million Rights Offering, the subscription period of which ended on May 8, 2009.

Total gross proceeds to *Attunity* were approximately $0.6 million and, when taken together with the conversion of approximately $0.4 million of short-term convertible loans (on the same terms of the Rights Offering), the Company increased its shareholders equity by approximately $1 million, excluding offering expenses.

As contemplated, the proceeds raised in the Rights Offering meet the minimum of $360,000 of gross proceeds that *Attunity* had to raise in order to secure the conversion of the short-term convertible loans, the extension of the maturity date of the $2 million convertible notes from May 2009 to November 2010, and the extension of the repayment date of the $2 million outstanding loan from *Plenus*, such that the repayment of the principal amount (in 24 equal monthly payments) will commence in February 2010 rather than March 2009.

Attunity will issue to the subscribing shareholders and the lenders a total of approximately 8.3 million ordinary shares and three-year warrants exercisable into approximately 4.1 million ordinary shares at an exercise price of $0.12 per share. The Company intends to use the net proceeds from the offering for general corporate purposes, including working capital.

Shimon Alon, Chairman and CEO of *Attunity*, stated, "We are very pleased that *Attunity* has been able to strengthen its equity capital base and cash position through the support of our shareholders, especially in the current condition of the capital markets. With the completion of this last step in the financing plan we initiated last year, we believe we are well positioned to meet our working capital requirements as well as the challenging market conditions in 2009. "

Headquartered in Boston, *Attunity* serves its customers via offices in North America, Europe, and Asia Pacific and through a network of local partners. For more information, please visit us at http://www.*Attunity*.com

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